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**BEFORE THE ARIZONA POWER PLANT
AND TRANSMISSION LINE SITING COMMITTEE**

**IN THE MATTER OF THE
APPLICATION OF SALT RIVER
PROJECT AGRICULTURAL
IMPROVEMENT AND POWER
DISTRICT, IN CONFORMANCE WITH
THE REQUIREMENTS OF ARIZONA
REVISED STATUTES, SECTIONS 40-
360, ET SEQ., FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY
AUTHORIZING THE EXPANSION OF
THE COOLIDGE GENERATING
STATION, ALL WITHIN THE CITY OF
COOLIDGE, PINAL COUNTY,
ARIZONA.**

DOCKET NO. L-00000B-21-0393-00197

**RESPONSE TO MOTION FOR
CONTINUANCE**

Arizona Corporation Commission

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Sierra Club's Motion for Continuance, filed without cause, consultation, or certification as to its good faith basis, should be denied. The Coolidge Expansion Project (the "Project") is a critically needed generation asset to allow the Salt River Project Agricultural Improvement and Power District (SRP) to meet the significant and unprecedented near-term increase in peak load energy needs in its service territory. In addition, the Project will be instrumental in enabling SRP to acquire and integrate more

1 renewable resources while maintaining the reliable electric service that SRP customers
2 currently enjoy and deserve. Unnecessarily delaying the hearing is not in the interests of
3 SRP's customers and risks SRP's ability to meet peak load in the summer months and
4 backup intermittent renewable generation sources. As such, SRP will not waive its
5 statutory right to have the evidentiary hearing completed within 60 days of first notice.

6 Sierra Club's Motion fails to show good cause for a continuance. First, SRP is
7 concerned with Sierra Club's apparent desire to expand the scope of the CEC process far
8 beyond its statutory moorings. As this Committee is aware, the purpose of the Certificate
9 of Environmental Compatibility (CEC) process is to evaluate the environmental
10 compatibility of a selected site, not to second guess the resource planning decisions made
11 by SRP's elected Board.

12 In addition, Sierra Club's suggestions that this CEC schedule is a surprise or
13 tactically selected to be done over the holidays are simply false. Sierra Club has known for
14 many months about the Project and SRP's plan to file an application for a CEC and so
15 Sierra Club cannot reasonably claim surprise or prejudice.

16 Consistent with the public notice that has already been published, the hearing must
17 commence January 18, 2022. However, and notwithstanding the absence of good cause in
18 Sierra Club's Motion, SRP does not oppose scheduling *additional* hearing days the week
19 of January 31 and, if necessary, February 7, if: i) the Committee is available; and ii) Sierra
20 Club stipulates to jointly request the Commission to consider the matter during its March
21 Open Meeting.

22 **I. Sierra Club's Motion seeks delay for an improper purpose.**

23 Sierra Club seemingly wishes to use this CEC proceeding as an opportunity to ask
24 the Commission to second-guess SRP's elected Board's resource planning decisions. *See,*
25 *e.g.,* Motion at 2:24-3:1 (SRP's technology selection is subject to "international
26 controversy" and "there are better alternatives.")

27 However, the statutory framework is clear and such second-guessing should be
28 foreclosed. The purpose of a CEC proceeding is to evaluate the suitability of an

1 Applicant's selected site:

2 A. The committee may approve or deny an application and may impose
3 reasonable conditions on the issuance of a certificate of environmental
4 compatibility and in so doing shall consider the following factors as a basis
5 for its action **with respect to the suitability of either plant or transmission
line siting plans:**

6 1. Existing plans of this state, local government and private
7 entities for other developments **at or in the vicinity of the proposed site.**

8 2. Fish, wildlife and plant life and associated forms of life on
9 which they are dependent.

10 3. Noise emission levels and interference with communication
11 signals.

12 4. **The proposed availability of the site** to the public for
recreational purposes, consistent with safety considerations and regulations.

13 5. Existing scenic areas, historic sites and structures or
14 archaeological sites **at or in the vicinity of the proposed site.**

15 6. The total environment **of the area.**

16 7. The technical practicability of achieving a proposed objective
17 and the previous experience with equipment and methods available for
18 achieving a proposed objective.

19 8. The estimated cost of the facilities **and site** as proposed by the
20 applicant and the estimated cost of the facilities **and site** as recommended by
21 the committee, recognizing that any significant increase in costs represents a
potential increase in the cost of electric energy to the customers or the
applicant.

22 9. Any additional factors that require consideration under
23 applicable federal and state laws **pertaining to any such site.**

24 A.R.S. § 40-360.06.A (emphasis added).

25 Consistent with the scope of the Committee's inquiry, "[t]he application ... shall be
26 accompanied by information with respect to the proposed type of facilities and description
27 of the site, including the areas of jurisdiction affected." A.R.S. § 40-360.03. Additionally,
28

1 the hearing must be “held in the general area within which the proposed plant or
2 transmission line is to be located or at the state capitol...” A.R.S. § 40-360.04.A.

3 Further, the Committee and Commission’s jurisdiction under this statutory
4 framework is explicitly limited under A.R.S. § 40-360.12:

5 Except as specifically provided for in this article nothing in this article shall
6 confer upon the commission the power or jurisdiction to regulate or supervise
7 any person, that is not otherwise a public service corporation regulated and
8 supervised by the commission. Nothing contained in this article shall confer
upon the commission the power or jurisdiction to regulate or establish the
rates, regulations or conditions of service of any such person.

9 Consistent with the narrow scope of the statutory framework to evaluate the
10 environmental compatibility of a site, the Commission’s rules governing CEC applications
11 addresses alternative *sites*, not alternative generation *types*. See R14-3-219 and Exhibit 1.

12 Finally, under A.R.S. § 40-360.04, “the hearing or hearings shall be held not less
13 than thirty days nor more than sixty days after the date notice is first given.” SRP has a
14 critical need for additional capacity and reliability that the CEP can provide. Delaying the
15 hearing is not an option in light of the critical need and so SRP will not waive its statutory
16 right to have the evidentiary hearing completed within 60 days, by February 14, 2022.

17 **II. The hearing schedule is neither a surprise nor prejudicial to Sierra Club.**

18 SRP’s Board approved the Coolidge Expansion Project in an open public session on
19 September 13, 2021. Prior to that, in a summer stakeholder series meeting on August 23,
20 2021, an SRP Power Committee meeting on August 24, 2021, and on the Project website
21 that was publicly available beginning on August 24, 2021, SRP informed stakeholders of
22 its goal to file a CEC application in December 2021, pending Board approval. Sierra Club
23 was an invitee and active participant in the summer stakeholder series. SRP’s Power
24 Committee and Board meetings are open to the public, and as its own Motion notes, Sierra
25 Club presented its position at the September Board meeting.

26 Following Board approval, SRP submitted its Ninety-Day Filing in Docket No. E-
27 00000M-08-0170 on September 14, 2021, which provided a clear signal of SRP’s intended
28 December 13, 2021, filing date. SRP also conducted numerous public outreach efforts,

1 including four live online Open Houses in October, at least one of which was attended by
2 Sierra Club representatives. During those Open Houses, SRP identified a planned filing
3 date of mid-December. Moreover, as Sierra Club states in its Motion, it has had numerous
4 communications with SRP regarding the Project generally.

5 Sierra Club understands the statutory requirements to publish notice of the hearing
6 within ten days of receiving an application and to hold the hearing within thirty to sixty
7 days after notice is first given. Yet despite SRP's robust outreach, Sierra Club's
8 participation in those efforts, and Sierra Club's frequent communications with SRP, Sierra
9 Club raised no concerns to SRP regarding the proposed filing date at any time prior to the
10 Motion at issue and did not inform SRP of its intent to intervene until December 9, two
11 days after the December 7 pre-filing conference had occurred. Given Sierra Club's
12 longstanding knowledge of the mid-December filing date and familiarity with the CEC
13 statutory time frames, Sierra Club cannot claim surprise or prejudice.

14 Finally, to the extent Sierra Club believes it needs more time to develop its case and
15 exchange exhibits, Sierra Club's first step, consistent with the Procedural Order, should
16 have been to meet and confer with SRP. *See* Para 8 of the Procedural Order:

17 The Applicant and all other parties and potential parties shall meet and confer
18 as needed before, during, and after the hearing to attempt to resolve any
19 disputes amongst the parties. The parties and potential parties shall also keep
20 all other parties and potential parties advised of their positions and intentions
with regard to the presentation of evidence, witnesses, and the application
process in general to avoid delay, the presentation of repetitive evidence, and
any unfair advantage from surprise.

21 That did not occur. In addition, Sierra Club's Motion lacks the certification that the
22 "requested postponement is not being sought solely for the purpose of delay and will serve
23 the interests of justice." ARCP Rule 38.1(b)(2). Had Sierra Club complied with the
24 requirements of the Procedural Order, the Motion would have been unnecessary, as SRP
25 would have informed Sierra Club that SRP does not oppose scheduling additional hearing
26 dates (within the 30 to 60 day statutory window) and would have stipulated to give Sierra
27 Club more time to exchange exhibits.

1 **Conclusion**

2 The Project is critically needed to allow SRP to meet the energy needs of its
3 customers and should not be unduly delayed. Sierra Club has been aware of the filing date
4 for this Project for months and has had ample time to prepare testimony regarding the
5 environmental compatibility of SRP's selected site. Sierra Club's Motion must be denied.
6 However, as stated herein, SRP does not oppose scheduling additional hearing dates and
7 allowing Sierra Club additional time to exchange exhibits, so long as the hearing
8 commences on January 18, 2022, in accordance with the published notice and the Project
9 stays on course for Commission review at the March 2022 Open Meeting.

10 **RESPECTFULLY SUBMITTED** this 23rd day of December, 2021.

11 JENNINGS STROUSS & SALMON P.L.C.

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24 ORIGINAL and 25 copies of the foregoing
25 filed this 23rd day of December, 2021, with:

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